

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JERRY D. SMITH,)	
)	
Petitioner,)	CASE NO. C06-898-RSM-MJB
)	
v.)	
)	
WASHINGTON STATE)	REPORT AND RECOMMENDATION
DEPARTMENT OF CORRECTIONS,)	
)	
Respondent.)	
_____)	

Petitioner is currently incarcerated at the Monroe Correctional Center pursuant to a 2004 King County Superior Court judgment and sentence. He has filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 in which he asserts that the Washington Department of Corrections is holding Jerry D. Smith in place of JERRY DEAN SMITH. Petitioner contends that Jerry D. Smith, whom he identifies as the “secured party,” is a “flesh and blood man,” and that JERRY DEAN SMITH, whom he identifies as the “debtor,” is a corporate fiction. (*Id.*) Petitioner appears to claim that he is entitled to release from custody because the party who is currently incarcerated is real, but the party who was convicted in King County Superior Court is a fiction. Petitioner’s claim is frivolous.

1 Section 2254(a) provides that the “district court shall entertain an application for a writ of
2 habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the
3 ground that he is in custody in violation of the Constitution or laws or treaties of the United States.”
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5 Petitioner does not allege that he is in custody in violation of the Constitution, nor does he offer any
6 coherent argument demonstrating that he is in custody in violation of any laws or treaties of the United
7 States.

8 Under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts,
9 a habeas corpus petition may be summarily dismissed if it plainly appears from the face of the petition
10 and any attached exhibits that the petitioner is not entitled to relief in the district court. Because
11 petitioner’s claims is frivolous, the Court should dismiss petitioner’s federal habeas petition with
12 prejudice. A proposed Order accompanies this Report and Recommendation.
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14 DATED this 22nd day of August, 2006.
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18 MONICA J. BENTON
19 United States Magistrate Judge
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